

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL COOPER,

Petitioner,

CASE NO. 16-10549

v.

HONORABLE DENISE PAGE HOOD

RANDALL HAAS,

Respondent.

**ORDER MOOTING APPLICATIONS TO PROCEED WITHOUT
PREPAYING FEES OR COSTS ON APPEAL**

AND

DENYING MOTIONS FOR CERTIFICATE OF APPEALABILITY

This matter is before the Court on Applications to Proceed Without Prepaying Fees or Costs on Appeal and Motions for Certificate of Appealability filed by Petitioner. (Doc. Nos. 13, 17 and 14, 18) The Court issued its Judgment and Order dismissing the habeas petition on February 3, 2017. (Doc. Nos. 10, 11) Petitioner filed a Notice of Appeal on March 2, 2017. (Doc. No. 12) In its Order, the Court declined to issue a certificate of appealability, but allowed Petitioner to proceed on appeal without prepaying the fees and costs. (Doc. No. 10, Pg ID 914)

Given that the Court has allowed Petitioner to proceed on appeal without prepaying the fees and costs, Petitioner's Applications to Proceed Without Prepaying

Fees or Costs on Appeal (Doc. Nos. 13 and 17) are MOOT. As to Petitioner's Motions for Certificate of Appealability, it appears Petitioner seeks reconsideration of the Court's determination that Petitioner is not entitled to a certificate of appealability.

A motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. E.D. Mich. LR 7.1(h); *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001). The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof. *Id.* A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997). To warrant a grant of a certificate of appealability, “[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473 (2000). Petitioner’s motion raises the same issues already ruled upon by the Court, either expressly or by reasonable implication. Petitioner has not shown that the Court’s order denying a certificate of appealability was issued with a palpable defect. Petitioner is not entitled to reconsideration of the Court’s order declining to issue a certificate of appealability.

Accordingly,

IT IS ORDERED that Petitioner's Applications to Proceed Without Prepaying Fees or Costs on Appeal (**Doc. Nos. 13 and 17**) are MOOT, the Court having allowed Petitioner to appeal without prepaying fees or costs in its February 3, 2017 Order.

IT IS FURTHER ORDERED that Petitioner's Motions for Certificate of Appealability (**Doc. Nos. 14 and 18**) are DENIED for the reasons set forth above and in its February 3, 2017 Order. A certificate of appealability will not issue in this case.

S/Denise Page Hood

Denise Page Hood
Chief Judge, United States District Court

Dated: March 8, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 8, 2017, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager